

E. MARTIN ESTRADA  
 United States Attorney  
 MACK E. JENKINS  
 Assistant United States Attorney  
 Chief, Criminal Division  
 J. JAMARI BUXTON (Cal. Bar No. 342364)  
 BRIAN R. FAERSTEIN (Cal. Bar No. 274850)  
 Assistant United States Attorneys  
 Public Corruption and Civil Rights Section  
 1500 United States Courthouse  
 312 North Spring Street  
 Los Angeles, California 90012  
 Telephone: (213) 894-3519/3819  
 Facsimile: (213) 894-0141  
 E-mail: jamari.buxton@usdoj.gov  
 brian.faerstein@usdoj.gov

Attorneys for Plaintiff  
 UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIGUEL ANGEL VEGA and  
 CHRISTOPHER BLAIR HERNANDEZ,

Defendants.

No. 23-CR-133-PA

PROTECTIVE ORDER REGARDING  
DISCOVERY CONTAINING PERSONAL  
IDENTIFYING INFORMATION, MEDICAL  
INFORMATION, AND PRIVACY ACT  
INFORMATION

The Court has read and considered the parties' Stipulation for a Protective Order Regarding Discovery Containing Personal Identifying Information, Medical Information, and Privacy Act Information, filed by the government and defendants Miguel Angel Vega ("defendant Vega") and Christopher Blair Hernandez ("defendant Hernandez" and, together with defendant Vega, "defendants") in this matter on April 19, 2023, which this Court incorporates by reference into this order, and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as follows:

1           1.     The government's discovery in this case relates to  
2 defendants' alleged crimes, that is, violations of 18 U.S.C. § 371  
3 (conspiracy); 18 U.S.C. § 242 (deprivation of rights under color of  
4 law); 18 U.S.C. § 1512(b)(3) (tampering with a witness); and 18  
5 U.S.C. § 1519 (falsification of records).

6           2.     A protective order for the discovery is necessary so that  
7 the government can produce to the defense materials containing third  
8 parties' PII and medical information. The Court finds that  
9 disclosure of this information without limitation risks the privacy  
10 and security of the information's legitimate owners. The medical  
11 information at issue may also be subject to various federal laws  
12 protecting the privacy of medical records, including provisions of  
13 the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.  
14 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because  
15 the government has an ongoing obligation to protect third parties'  
16 PII and medical information, the government cannot produce to  
17 defendants an unredacted set of discovery containing this  
18 information without this Court entering the Protective Order.  
19 Moreover, PII and medical information make up a significant part of  
20 the discovery in this case and such information itself, in many  
21 instances, has evidentiary value. If the government were to attempt  
22 to redact all this information in strict compliance with Federal  
23 Rule of Criminal Procedure 49.1, the Central District of  
24 California's Local Rules regarding redaction, and the Privacy Policy  
25 of the United States Judicial Conference, the defense would receive  
26 a set of discovery that would be highly confusing and difficult to  
27 understand, and it would be challenging for defense counsel to  
28 adequately evaluate the case, provide advice to defendant, or

1 prepare for trial.

2       3. An order is also necessary because the government intends  
3 to produce to the defense materials that may contain information  
4 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act  
5 Information"). The Court finds that, to the extent that these  
6 materials contain Privacy Act information, disclosure is authorized  
7 pursuant to 5 U.S.C. § 552a(b)(11).

8       4. The purpose of this Protective Order is therefore to  
9 (a) allow the government to comply with its discovery obligations  
10 while protecting this sensitive information from unauthorized  
11 dissemination, and (b) provide the defense with sufficient  
12 information to adequately represent defendants.

13       5. Accordingly, the discovery that the government will  
14 provide to defense counsel in the above-captioned case will be  
15 subject to this Protective Order, as follows:

16           a. As used herein, "PII Materials" includes any  
17 information that can be used to identify a person, including a name,  
18 address, date of birth, Social Security number, driver's license  
19 number, telephone number, account number, email address, or personal  
20 identification number.

21           b. "Medical Materials" includes any individually  
22 identifiable health information that is connected to a patient's  
23 name, address, or other identifying number, such as a Social  
24 Security number or Medicare/Medi-Cal number.

25           c. "Confidential Information" refers to any document or  
26 information containing PII Materials or Medical Materials that the  
27 government produces to the defense pursuant to this Protective Order  
28 and any copies thereof.

1 d. "Defense Team" includes (1) defendants' counsel of  
2 record ("defense counsel"); (2) other attorneys at defense counsels'  
3 law firms who may be consulted regarding case strategy in this case;  
4 (3) defense investigators who are assisting defense counsel with  
5 this case; (4) retained experts or potential experts; and  
6 (5) paralegals, legal assistants, and other support staff to defense  
7 counsel who are providing assistance on this case. The Defense Team  
8 does not include defendants, defendants' family members, or any  
9 other associates of defendants.

10 e. The government is authorized to provide defense  
11 counsel with Confidential Information marked with the following  
12 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE  
13 ORDER." The government may put that legend on the digital medium  
14 (such as DVD or hard drive) or simply label a digital folder on the  
15 digital medium to cover the content of that digital folder. The  
16 government may also redact any PII contained in the production of  
17 Confidential Information.

18 f. If either defendant objects to a designation that  
19 material contains Confidential Information, the parties shall meet  
20 and confer. If the parties cannot reach an agreement regarding that  
21 defendant's objection, that defendant may apply to the Court to have  
22 the designation removed.

23 g. Defendants and the Defense Team agree to use the  
24 Confidential Information solely to prepare for any pretrial motions,  
25 plea negotiations, trial, and sentencing hearing in this case, as  
26 well as any appellate and post-conviction proceedings related to  
27 this case.

1           h.     The Defense Team shall not permit anyone other than  
2 the Defense Team to have possession of Confidential Information,  
3 including defendants, while outside the presence of the Defense  
4 Team.

5           i.     At no time, under no circumstance, will any  
6 Confidential Information be left in the possession, custody, or  
7 control of defendants, regardless of defendants' custody status.

8           j.     Defendants may review PII Materials and Medical  
9 Materials only in the presence of a member of the Defense Team, who  
10 shall ensure that defendants are never left alone with any PII  
11 Materials or Medical Materials. At the conclusion of any meeting  
12 with a defendant at which the defendant is permitted to view PII  
13 Materials or Medical Materials, the defendant must return any PII  
14 Materials or Medical Materials to the Defense Team, and the member  
15 of the Defense Team present shall take all such materials with him  
16 or her. The defendant may not take any PII Materials or Medical  
17 Materials out of the room in which the defendant is meeting with the  
18 Defense Team.

19           k.     Defendants may see and review Confidential  
20 Information as permitted by this Protective Order, but defendants  
21 may not copy, keep, maintain, or otherwise possess any Confidential  
22 Information in this case at any time. Defendants also may not write  
23 down or memorialize any data or information contained in the  
24 Confidential Information.

25           l.     The Defense Team may review Confidential Information  
26 with a witness or potential witness in this case, including  
27 defendants. A member of the Defense Team must be present if PII  
28 Materials or Medical Materials are being shown to a witness or

1 potential witness. Before being shown any portion of Confidential  
2 Information, however, any witness or potential witness must be  
3 informed of, and agree in writing to be bound by, the requirements  
4 of the Protective Order. No member of the Defense Team shall permit  
5 a witness or potential witness to retain Confidential Information or  
6 any notes generated from Confidential Information.

7 m. The Defense Team shall maintain Confidential  
8 Information safely and securely, and shall exercise reasonable care  
9 in ensuring the confidentiality of those materials by (1) not  
10 permitting anyone other than members of the Defense Team,  
11 defendants, witnesses, and potential witnesses, as restricted above,  
12 to see Confidential Information; (2) not divulging to anyone other  
13 than members of the Defense Team, defendants, witnesses, and  
14 potential witnesses, the contents of Confidential Information; and  
15 (3) not permitting Confidential Information to be outside the  
16 Defense Team's offices, homes, vehicles, or personal presence.

17 n. To the extent that defendants, the Defense Team,  
18 witnesses, or potential witnesses create notes that contain, in  
19 whole or in part, Confidential Information, or to the extent that  
20 copies are made for authorized use by members of the Defense Team,  
21 such notes, copies, or reproductions become Confidential Information  
22 subject to the Protective Order and must be handled in accordance  
23 with the terms of the Protective Order.

24 o. The Defense Team shall use Confidential Information  
25 only for the litigation of this matter and for no other purpose.  
26 Litigation of this matter includes any appeal filed by one or both  
27 defendants and any motion filed by one or both defendants pursuant  
28 to 28 U.S.C. § 2255. In the event that a party needs to file

1 Confidential Information with the Court or divulge the contents of  
2 Confidential Information in court filings, the parties shall meet  
3 and confer regarding appropriate redactions of Confidential  
4 Information so as to prevent the public disclosure of Confidential  
5 Information or seek leave of the Court to make an under-seal filing.  
6 If the Court rejects the request to file such information under  
7 seal, the party seeking to file such information publicly shall  
8 provide advance written notice to the other party to afford such  
9 party an opportunity to object or otherwise respond to such  
10 intention. If the other party does not object to the proposed  
11 filing, the party seeking to file such information shall redact any  
12 PII Materials or Medical Materials and make all reasonable attempts  
13 to limit the divulging of PII Materials or Medical Materials.

14 p. Any Confidential Information inadvertently produced  
15 in the course of discovery prior to entry of the Protective Order  
16 shall be subject to the terms of this Protective Order. If  
17 Confidential Information was inadvertently produced prior to entry  
18 of the Protective Order without being marked "CONFIDENTIAL  
19 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government  
20 shall reproduce the material with the correct designation and notify  
21 defense counsel of the error. The Defense Team shall take immediate  
22 steps to destroy the unmarked material, including any copies.

23 q. Confidential Information shall not be used by  
24 defendants or the Defense Team, in any way, in any other matter,  
25 absent an order by this Court. All materials designated subject to  
26 the Protective Order maintained in the Defense Team's files shall  
27 remain subject to the Protective Order unless and until such order  
28 is modified by this Court. Within 30 days of the conclusion of

1 appellate and post-conviction proceedings, defense counsel shall  
2 return all PII Materials or Medical Materials, certify that such  
3 materials have been destroyed, or certify that such materials are  
4 being kept pursuant to the California Business and Professions Code  
5 and the California Rules of Professional Conduct.

6           r. In the event that there is a substitution of counsel  
7 prior to when such documents must be returned, new defense counsel  
8 must be informed of, and agree in writing to be bound by, the  
9 requirements of the Protective Order before the undersigned defense  
10 counsel transfers any Confidential Information to the new defense  
11 counsel. New defense counsel's written agreement to be bound by the  
12 terms of the Protective Order must be returned to the Assistant U.S.  
13 Attorney assigned to the case. New defense counsel then will become  
14 the Defense Team's custodian of materials designated subject to the  
15 Protective Order and shall then become responsible, upon the  
16 conclusion of appellate and post-conviction proceedings, for  
17 returning to the government, certifying the destruction of, or  
18 retaining pursuant to the California Business and Professions Code  
19 and the California Rules of Professional Conduct all PII Materials  
20 or Medical Materials.

21           s. Defense counsel shall advise defendants and all  
22 members of the Defense Team of their obligations under the  
23 Protective Order and ensure their agreement to follow the Protective

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Order, prior to providing defendants and members of the Defense Team with access to any materials subject to the Protective Order.

IT IS SO ORDERED.

April 20, 2023

DATE

  
PERCY ANDERSON  
UNITED STATES DISTRICT JUDGE

Presented by:

/s/  
J. JAMARI BUXTON  
BRIAN R. FAERSTEIN  
Assistant United States Attorneys